

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES INVESTOR PROTECTION :
CORPORATION, :

Plaintiff, :

-v- :

BERNARD L. MADOFF INVESTMENT :
SECURITIES LLC, :

Defendant. :

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In re: :

MADOFF SECURITIES :

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PERTAINS TO: :

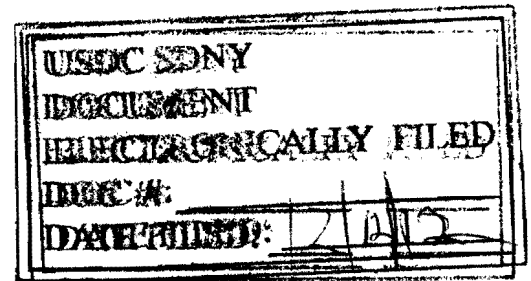
Consolidated proceedings on :
11 U.S.C. § 550(a) :

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JED S. RAKOFF, U.S.D.J.

12 MC 115 (JSR)

ORDER



On August 21, 2012, upon consent of the parties and having already withdrawn the reference from the bankruptcy court, the Court ordered consolidated briefing on the merits of two issues related to the application of Section 550(a) of the Bankruptcy Code to recovery actions brought by Irving H. Picard (the "Trustee"), appointed as trustee pursuant to the Securities Investor Protection Act for the consolidated liquidation of Bernard L. Madoff Investment Securities, LLC, against alleged subsequent transferees of property of the debtor. See Order, *In re Madoff Sec.*, 12 MC 115, ECF No. 314

(S.D.N.Y. Aug. 21, 2012). Namely, those issues are "(1) whether, as a precondition for pursuing a recovery action against a subsequent transferee under 11 U.S.C. § 550(a), the Trustee must first obtain a fully-litigated, final judgment of avoidance against the relevant initial transferee under 11 U.S.C. §§ 544, 547 or 548, or (2) whether the Trustee's recovery action against a subsequent transferee under 11 U.S.C. § 550(a) must be dismissed unless the Trustee has obtained a judgment against the relevant subsequent transferee avoiding the initial transfer or he asserts a claim against the subsequent transferee to avoid the initial transfer within the period prescribed by 11 U.S.C. § 546(a)." *Id.* ¶ B.

After carefully considering the parties' written submissions and oral argument, the Court hereby denies the defendants' motions to dismiss as to both of the Section 550(a) issues. An opinion explaining the reasons for this ruling will issue in due course. The Clerk of the Court is directed to close items 382 and 387 on the docket of this case.

SO ORDERED.

Dated: New York, NY
December 5, 2012


JED S. RAKOFF, U.S.D.J.